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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/115,764	07/15/1998	MICHAEL REASONER	59479.21601	1754
30734	7590	12/30/2005	EXAMINER	
BAKER & HOSTETLER LLP WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVE. N.W. WASHINGTON, DC 20036-5304			LUONG, VINH	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/115,764

Applicant(s)

REASONER, MICHAEL

Examiner

Vinh T. Luong

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/13/05 & 11/29/05.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-29 and 37-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-29 and 37-40 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



Vinh T. Luong
Primary Examiner

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The Response to Quayle Action filed on October 13, 2005 has not been entered because the entire text of the patent claim such as claim 4 is not presented with proper markings. See MPEP 1453.
2. The Amendment filed on November 29, 2005 has been entered.
3. The drawings were received on October 13, 2005. These drawings are unaccepted by the Examiner because Applicant's amendments to the drawings do not comply with 37 CFR 1.173 and MPEP 1413. For example, Applicant's word "Canceled" is not *at the bottom* of Fig. 3 and Applicant's word "New" is not *at the bottom* of new Figs. 3A and 3B. Applicant's words "Canceled" and "New" are located *at the side* of the figures. See example of the drawing amendments attached.
4. The drawings are objected to because the drawing amendments fail to comply with 37 CFR 1.173 and MPEP 1413 *supra*. Corrected drawing sheets in compliance with 37 CFR 1.173 are required in reply to the Office action to avoid abandonment of the application.
5. Claims 4-29 and 37-40 are allowed.
6. The interlineations or cancellations made in the specification or amendments to the claims could lead to confusion and mistake during the issue and printing processes. Accordingly, the portion of the specification or claims as identified below is required to be rewritten before passing the case to issue. See 37 CFR 1.125 and MPEP § 608.01(q).

All of the amended claims in compliance with 37 CFR 1.173 are required to be rewritten.
7. Applicant's arguments filed November 29, 2005 have been fully considered but they are not persuasive.

Applicant contended that Applicant did not make any amendments to the claims in the Paper filed on October 13, 2005, thus, Applicant did not have to comply with 37 CFR 1.173 and MPEP 1453.

If Applicant did not make any amendments to the claims in the Paper filed on October 13, 2005, Applicant should not have presented the section "AMENDMENTS TO THE CLAIMS" on pages 8-10 of the above Paper. On the one hand, the heading "AMENDMENTS TO THE CLAIMS" implied that the amendment was made in the claims. On the other hand, the *Ex parte Quayle* action on June 17, 2005 merely objected to Applicant's drawings, not the claims. Therefore, Applicant's section "AMENDMENTS TO THE CLAIMS" on pages 8-10 of the above Paper was immaterial to the objection set forth in the *Ex parte Quayle* on June 17, 2005.

In addition, Applicant should have presented the claims in compliance with 37 CFR 1.173 and MPEP 1453 in the above Paper so that if the case were passed to issue, the printer would print the amended claims with proper markings to show the changes that are made *vis-a-vis* the claims of the US Patent 5,653,148 to be reissued. See MPEP 1453. The printer would not be aware that the printer should print Applicant's claims as shown in the Response filed on March 21, 2005. Since the printer of the Office will print the claims as shown in the most updated amendment as presented in the electronic file record of the Office, Applicant is respectfully urged to resubmit a new set of all of the claims with proper markings under 37 CFR 1.173 in the next communication.

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Applicant further contended that the Application is in the condition for allowance. However, the drawing amendments still do not comply with 37 CFR 1.173 as seen above. Upon filing of proper drawing amendments, the Application would be in the condition for allowance.

8. This application is in condition for allowance except for the following formal matters: see the objection to the drawing amendments above. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

December 27, 2005



Vinh T. Luong
Primary Examiner

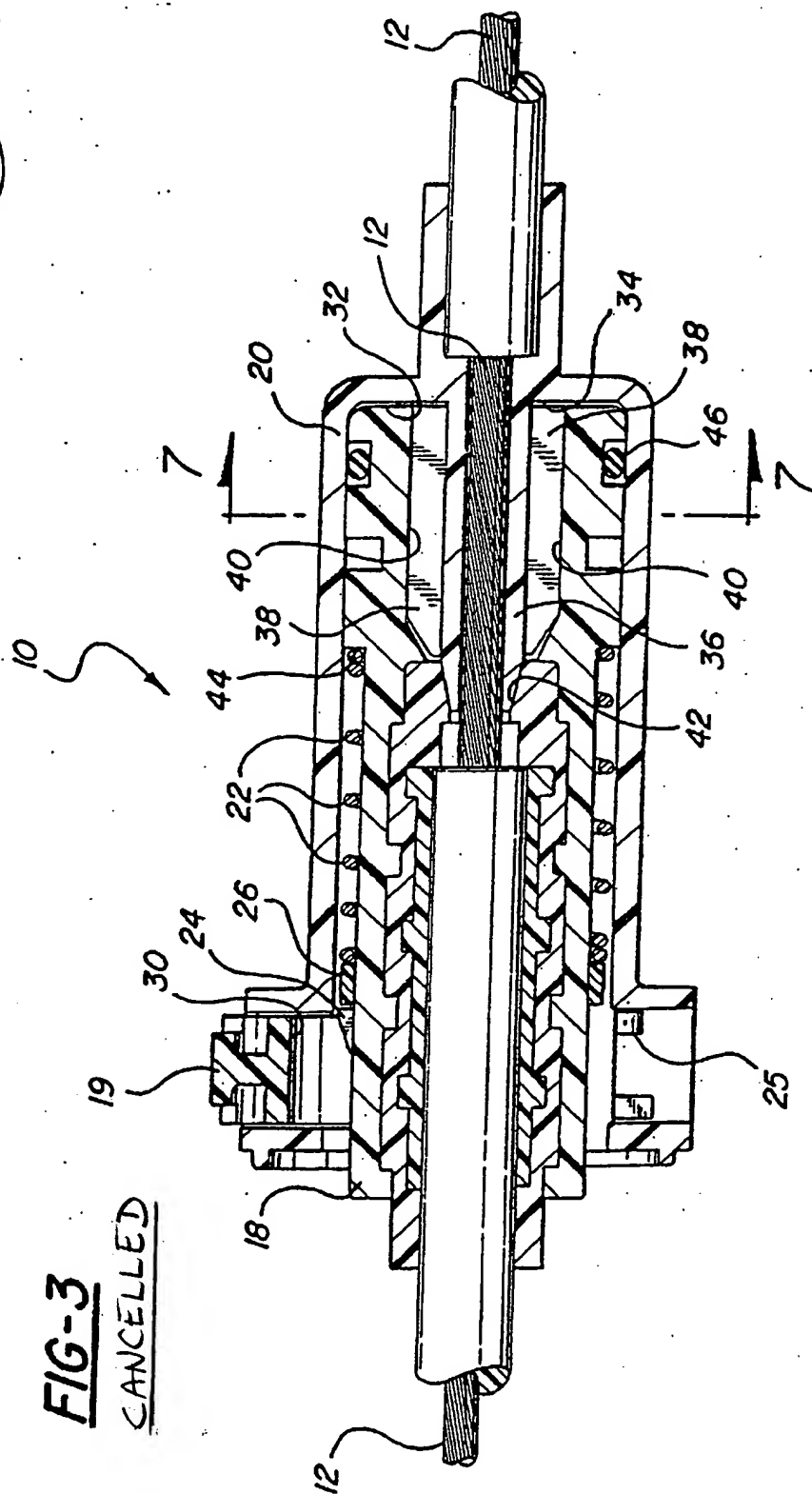
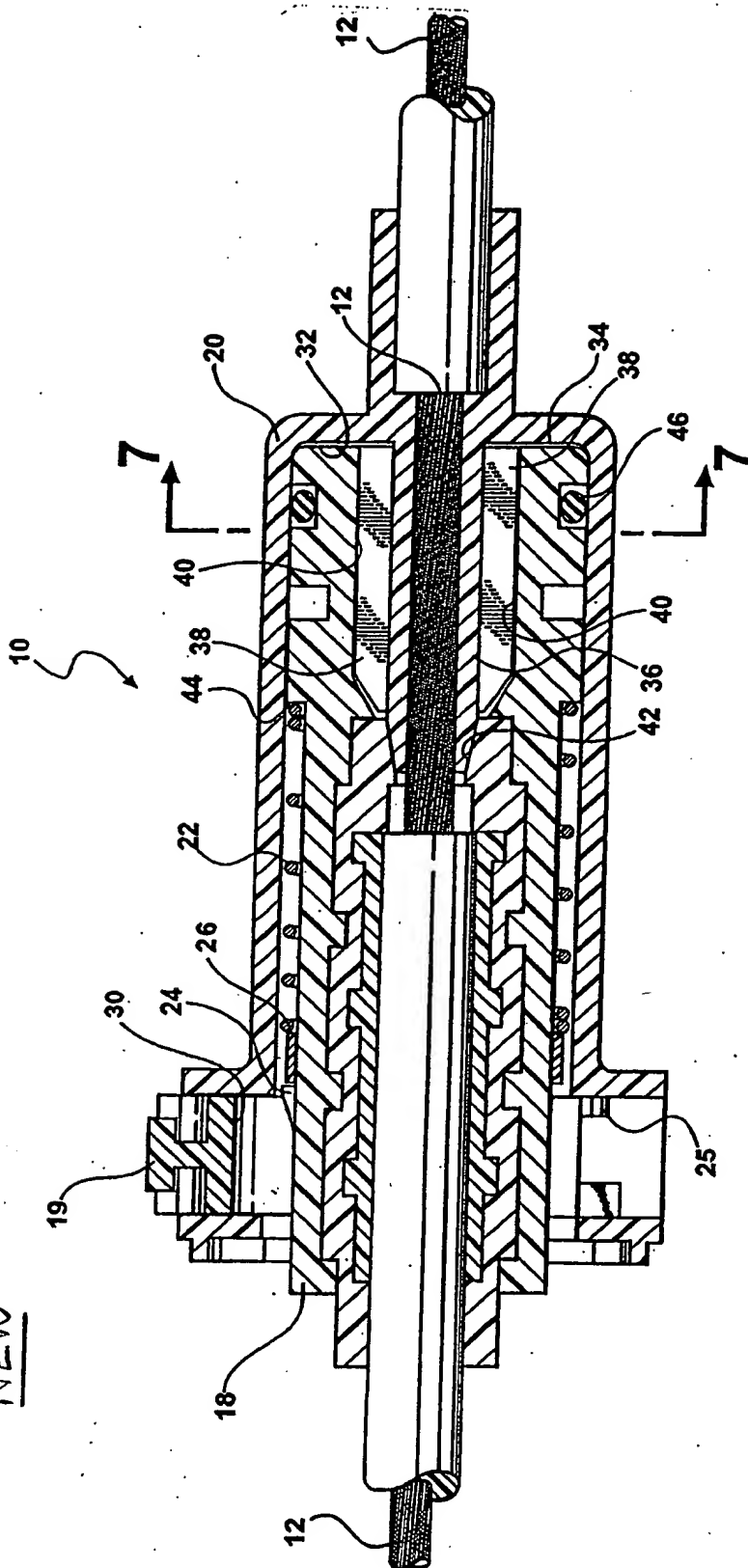


FIG-3
CANCELLED

Attorney Docket No. 59479.21601
Application No. 09/115,764
Inventor: Michael REASONER
Filed: July 15, 1998
Replacement Figure 3 – "Cancelled"



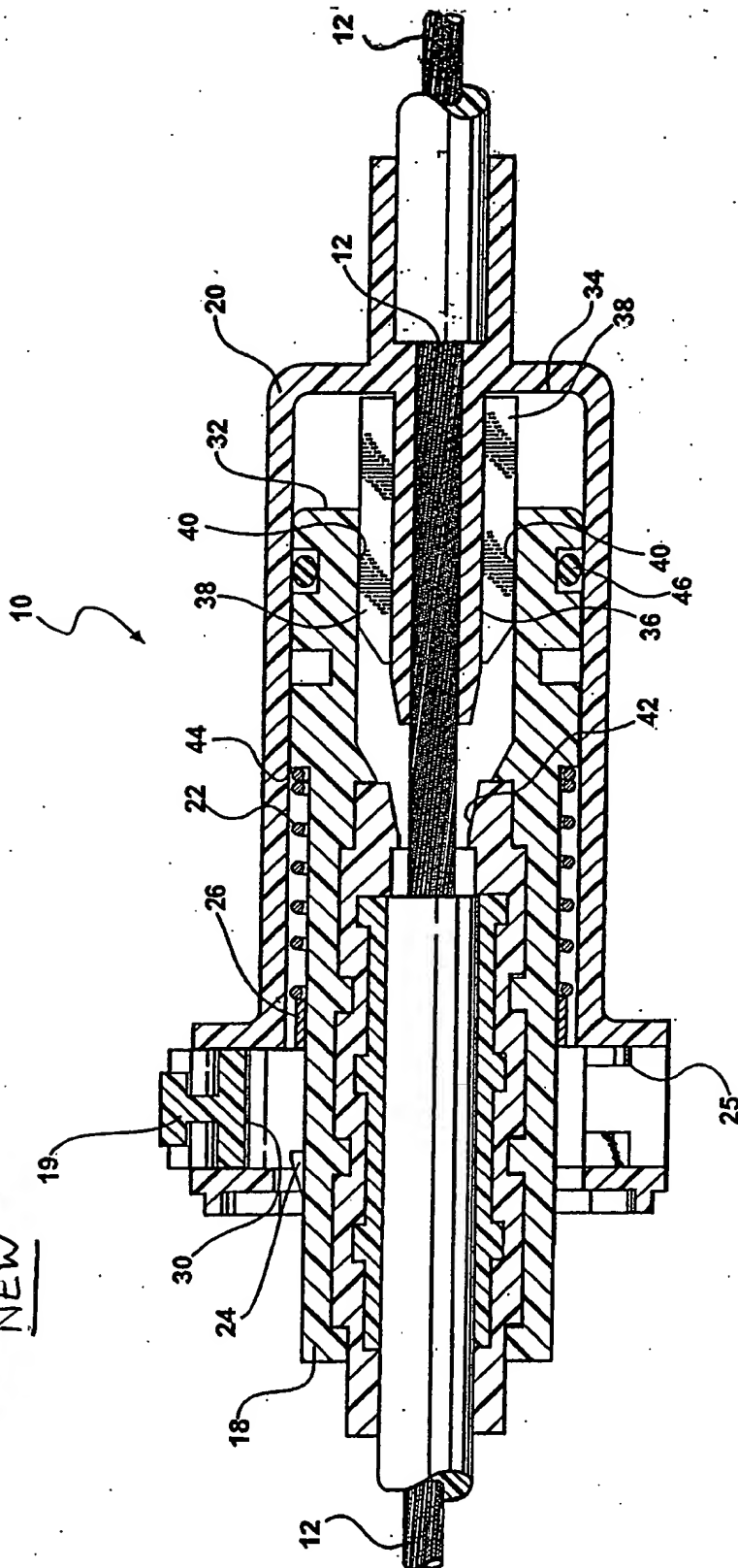
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Attorney Docket No. 59479.21601
Application No. 09/115,764
Inventor: Michael REASONER
Filed: July 15, 1998
Replacement Figure 3A – “New”



FIG - 3B

NEW



BEST AVAILABLE COPY

Attorney Docket No. 59479.21601
 Application No. 09/115,764
 Inventor: Michael REASONER
 Filed: July 15, 1998
 Replacement Figure 3B - "New"